

37 Am. Jur. 2d Fraud and Deceit § 4

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Fraud and Deceit

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I. Overview

A. In General; Definitions and Types of Fraud

§ 4. Deceit

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Fraud](#) 0-1

Deceit is a species of fraud.¹ Deceit at common law was and is, essentially, fraud, that is, a deliberate effort to obtain something of value by deceiving another.² In some jurisdictions conduct prohibited under separate statutory definitions of fraud and deceit is substantially identical.³

Deceit is actual fraud,⁴ and it consists of any false representation or contrivance whereby one person overreaches and misleads another to his or her hurt.⁵ Deceit excludes the idea of mistake, and fraud has been termed a grosser species of deceit.⁶ The tort of fraudulent deceit results from either a willful or reckless misrepresentation or a suppression of material facts with an intent to mislead.⁷

Observation:

The term “fraud” applies when there is a contract between the parties while the term “deceit” applies when there is no contract between the parties.⁸

In some jurisdictions, there is no separate cause of action for deceit, and deceit is encompassed within a fraud claim.⁹

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Footnotes

¹ [Crawford v. Crawford](#), 134 Ga. 114, 67 S.E. 673 (1910); [Sioux City v. Western Asphalt Paving Corp.](#), 223 Iowa 279, 271 N.W. 624, 109 A.L.R. 608 (1937).

² [Krejci v. U.S. Army Material Development Readiness Command](#), 733 F.2d 1278 (7th Cir. 1984).

³ [Dvorak v. American Family Mut. Ins. Co.](#), 508 N.W.2d 329 (N.D. 1993).

⁴ [Plough Broadcasting Co., Inc. v. Dobbs](#), 163 Ga. App. 264, 293 S.E.2d 526 (1982); [Bruske v. Hille](#), 1997 SD 108, 567 N.W.2d 872 (S.D. 1997).

⁵ [Walter v. State](#), 208 Ind. 231, 195 N.E. 268, 98 A.L.R. 607 (1935).

⁶ [Walter v. State](#), 208 Ind. 231, 195 N.E. 268, 98 A.L.R. 607 (1935).

⁷ [Ford Motor Co. v. Sperau](#), 708 So. 2d 111 (Ala. 1997).

⁸ [WFND, LLC v. Fargo Marc, LLC](#), 2007 ND 67, 730 N.W.2d 841 (N.D. 2007); [Delzer v. United Bank of Bismarck](#), 527 N.W.2d 650 (N.D. 1995).

As to the contract and tort distinction, generally, see § 21.

⁹ [Professional Service Industries, Inc. v. Kimbrell](#), 834 F. Supp. 1305 (D. Kan. 1993) (applying Kansas law).